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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,570	11/14/2003	Steven Petrucelli	MSI-301	1764
45722	7590	02/22/2006	EXAMINER	
PLEVY & HOWARD, P.C. P.O. BOX 226 FORT WASHINGTON, PA 19034			FOREMAN, JONATHAN M	
			ART UNIT	PAPER NUMBER
			3736	

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/714,570	Applicant(s) PETRUCELLI, STEVEN	
	Examiner Jonathan ML Foreman	Art Unit 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-18 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/19/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed 11/19/04 complies with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609. It has been placed in the application file, and the information referred to therein has been considered by the examiner as to the merits.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 4 – 9, 12 and 13 – 16 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,532,385 to Serizawa et al.

In regards to claims 1, 2, 4 – 9, 12 and 13 – 16, Serizawa et al. discloses an apparatus for measuring body composition (Col. 3, lines 32 – 34), the apparatus comprising a rigid, light transmissive platform (Col. 3, lines 40 – 41) having a top surface for supporting a user standing on the apparatus (Col. 3, lines 43 – 45), and a bottom surface; a plurality of support assemblies (2) associated with the bottom surface of the platform, for supporting the platform above a surface, at least one of the assemblies having a sensor for measuring a weight of the user (Col. 3, lines 40 – 42); and at least two, light transmissive conductive electrodes (Col. 3, lines 54 – 63) disposed over the top surface of the platform, the electrodes for contacting portions of the user's body; wherein the electrodes provide signal information about the user's body, which is used for measuring the

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composition of the user's body. The electrodes are electrically isolated from one another. The electrodes are formed of Indium Tin Oxide (Col. 3, line 63). The electrodes are operable as a switch for activating or deactivating the apparatus in that a measurement cannot be performed until a user bridges the electrodes. The electrodes are uniformly disposed over the top surface and each define a quadrant (Figure 1a). The electrodes are coupled to contacts associated with the top and bottom surface of the platform for communicating signal information to a processor (Col. 4, lines 25 – 28). Serizawa et al. discloses a display assembly (Col. 4, lines 1 – 4) for displaying a measured body weight of a user and/or body composition of the user and having a housing (Col. 4, lines 14 – 16) and at least one contact disposed on an inner surface of the housing for communicating the signal information to a processor (Col. 4, lines 25 – 28).

3. Claims 1 – 10 and 12 - 16 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Application No. 2003/0149374 to Chai.

In regards to claims 1 – 10 and 12 - 16, Chai discloses an apparatus for measuring body composition [0001], the apparatus comprising a rigid, light transmissive platform [0025] having a top surface for supporting a user standing on the apparatus, and a bottom surface; a plurality of support assemblies (87 – 90) associated with the bottom surface of the platform, for supporting the platform above a surface, at least one of the assemblies having a sensor for measuring a weight of the user[0023]; and at least two, light transmissive conductive electrodes disposed over the top surface of the platform [0026], the electrodes for contacting portions of the user's body; wherein the electrodes provide signal information about the user's body, which is used for measuring the composition of the user's body. The at least two light transmissive electrodes occupy a majority area of the top surface (Figure 10). The electrodes are electrically isolated from one another. The electrodes are formed of Indium Tin Oxide [0026]. The electrodes are uniformly disposed over the

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top surface and each define a quadrant (Figure 10). The electrodes are operable as a switch for activating or deactivating the apparatus in that a measurement cannot be performed until a user bridges the electrodes. The electrodes are coupled to a contacts associated with the top and bottom surface of the platform for communicating signal information to a processor [0034]. Chai discloses the electrodes being indirectly coupled to a contact associated with a bottom surface of the platform [0035]. Chai discloses a display assembly (84) for displaying a measured body weight of a user and/or body composition of the user and having a housing an at least one contact disposed on an inner surface of the housing for communicating the signal information to a processor [0023][0034].

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,292,690 to Petrucelli et al. in view of US Patent No. 6,532,385 to Serizawa et al.

In regards to claims 17 and 18, Petrucelli et al. discloses a circuit for measuring body impedance including a voltage source comprising a self determining frequency source ; a current source; a first pair of electrodes (21, 22) disposed over a top surface of a platform (118), the first pair of electrodes for applying the current source to a user's body (Col. 7, lines 52 – 54); a second pair of electrodes (25, 26) disposed over the top surface of the platform, the second pair of electrodes for sensing a voltage outputted by the user's body (Col. 7, lines 54 – 55); and a processor (50) for measuring body impedance and determining body composition based on the sensed voltage signal in

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response to the applied current source (Col. 9, lines 49 – 52). However, Petrucelli et al. fails to disclose the platform or the electrodes being light transmissive. Serizawa et al. discloses a circuit form measuring body impedance including light transmissive electrodes and a light transmissive platform. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the platform and electrodes as disclosed by Petrucelli et al. to be light transmissive as taught by Serizawa et al. so as to protect and display a paper bearing a caution notice or the description of operation to be affixed to the lower surface of the platform (See Abstract).

Allowable Subject Matter

6. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art fails to disclose or suggest indirectly coupling at least one of two light transmissive electrodes through a platform to a contact form communicating signal information to a processor.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan ML Foreman whose telephone number is (571)272-4724. The examiner can normally be reached on Monday - Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571)272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JMLF


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